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ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS

Situation of human rights in Haiti

Report by Mr. Adama Dieng, independent expert, prepared in accordance with Commission resolution 1996/58

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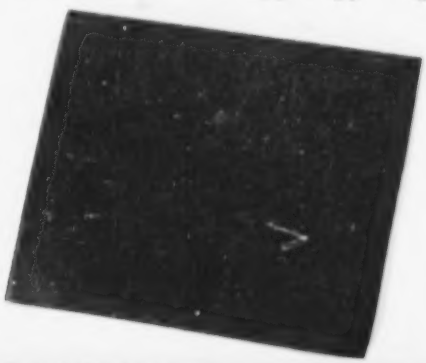

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Introduction

1. At its fifty-first session, the Commission on Human Rights, after considering the report of the Special Rapporteur, Mr. Marco Tulio Bruni Celli (E/CN.4/1995/59), by its resolution 1995/70 requested the Secretary-General to appoint an independent expert to have responsibility for providing assistance to the Haitian Government in the area of human rights, to examine the development of the situation in Haiti in that area, and to monitor the fulfilment by Haiti of its obligations in that field. The Commission requested the expert to submit a report to the General Assembly at its fiftieth session and to the Commission on Human Rights at its fifty-second session.

2. The Economic and Social Council having endorsed the request of the Commission through its decision 1995/281, the Secretary-General, on 31 July 1995, appointed Mr. Adama Dieng as the independent expert. On 1 November 1995, the independent expert communicated his report (A/50/714) to the Secretary-General; the report was then submitted to the General Assembly at its fiftieth session. Another report (E/CN.4/1996/94), which reproduced a large part of the report submitted to the General Assembly, but which was supplemented by a section on economic, social and cultural rights, was submitted to the Commission on Human Rights at its fifty-second session.

3. In its resolution 1996/58, the Commission on Human Rights requested the independent expert to report to the Commission at its fifty-third session on the development of the human rights situation in Haiti and on the initiation of the technical cooperation programme in the area of human rights.

4. The present report contains the information requested as well as the recommendations made by the independent expert following his mission to Haiti and neighbouring countries, from 31 October to 14 November 1996. Among the many people he met with were Mr. René Préval, President of the Republic; Mr. Jean-Bertrand Aristide, former President of the Republic; Mr. Fritz Longchamp, Minister for Foreign Affairs; Mr. Pierre Max Antoine, Minister of Justice; and Mr. Edgar Leblanc, President of the Senate and of the National Assembly. The independent expert wishes to express his gratitude for the constructive cooperation he received from the Haitian authorities. He also met with the Executive Director of the International Civilian Mission in Haiti (MICIVIH) and his assistant; the Deputy Resident Representative of the United Nations Development Programme (UNDP); representatives of several international agencies and donor countries; and representatives of non-governmental organizations (NGOs), including in particular the Plate-forme des organisations haïtiennes des droits de l'homme. In Miami, he met with representatives of the Haitian community and the editor-in-chief of Haïti en Marche. In New York, he met with Haiti's Permanent Representative to the United Nations, representatives of the United States and Venezuelan missions to the United Nations, and leaders of the National Coalition for Human Rights in Haiti. He also wishes to thank all those persons who, whether in Port-au-Prince, Miami or New York, assisted him in carrying out his mission.

5. Ever since independence in 1804, Haiti has experienced terror, injustice and political violence, up until 1994, which marked a turning point with the election of a civilian president following democratic, free and transparent elections.

6. In December 1990, an overwhelming majority of the Haitian people elected as President Jean-Bertrand Aristide, who symbolized their thirst for justice and hopes for a better life. This was the start of an experiment in democracy that allowed the Haitian people to glimpse mastery of their own fate. But the experiment was short-lived: in September 1991, a military coup plunged the country into darkness. For three years the daily life of Haitians was marked by murders, summary and extrajudicial executions, enforced disappearances, arbitrary arrests, rape, torture, cruel, inhuman and degrading treatment, extortion, and destruction or confiscation of property. Furthermore, the economic and trade embargo imposed by the international community to force the military to hand over power to the democratically elected leaders had a devastating impact on the economic and social environment. That was the price to be paid for restoring democracy, ensuring the return of President Aristide and making a new commitment to establishing stable, lasting political and economic structures.

7. Municipal and local legislative elections were held in June 1995 for the Chamber of Deputies, two thirds of the Senate and all the mayors and local elected officials. The presidential vote took place unenthusiastically in December 1995, as a large part of the electorate wanted Aristide to continue in office, which the Constitution did not authorize. René Préval, one of Aristide's followers, who had been Prime Minister from February to September 1991 (when the coup d'état occurred) or, in terms of the continuation of President Aristide's term in office, to July 1993 (when Robert Malval was nominated as Prime Minister), won the election and officially took office on 7 February 1996.

8. René Préval may not be as charismatic as Aristide, but he is none the less determined to take up the many challenges, the most difficult of which are the restoration of Haitian justice, public security, human rights and, last but not least, combating poverty. For almost two hours President Préval conversed with the independent expert about the thorny questions on his agenda and the reforms he has planned. This meeting reaffirmed the expert's decision in 1996 to devote space in the present report to the issue of the effective enjoyment of economic, social and cultural rights in Haiti. The progress made in the field of civil and political rights would undeniably gain from being protected through recognition and a more generous application of economic and social rights.

9. Two weeks before the expert's arrival in Port-au-Prince, the Haitian people had celebrated the second anniversary of Haiti's return to constitutional order. As Prime Minister Rony Smarth put it, "15 October marked the Haitian people's rejection of dictatorship". The President used the occasion of the commemorative ceremony held at the National Palace to refer to the "impotence of justice and the difficulties of making the State machinery work".

10. Although many obstacles stand in the way of restoring the rule of law in Haiti, the situation is not without hope. The people do continue to suffer from the aftermath of the long night of the dictatorship; but there is room for hope, judging by the many initiatives taken by the authorities, in their quest for a better future for the Haitian people.

I. ECONOMIC AND SOCIAL RIGHTS

A. Economic and social situation

11. The economic and social situation has been deteriorating since 1991. It is therefore crucial that order should be established in the public administration and State enterprises so that the Haitian Government can satisfy the aspirations of the people. The task is enormous, given the great poverty of the masses and the fact that the State is the main employer, there is a freeze on all recruitment and there are no resources for undertaking major works. However, it must be recognized that Haiti is at a crossroads and has chosen to make public administration pay its own way and to decentralize. Was this choice dictated by the Bretton Woods institutions? The question deserves to be asked in the light of the difficulties faced by Prime Minister Smarck Michel when the privatization dossier was being dealt with. He was forced to resign in late 1995 and replaced by Mrs. Claudette Werleight, but the problem was still not solved.

12. This was one of the difficult matters inherited by the new President, René Préval. In the expert's opinion, the choice is relatively open, judging by the delay in implementation. This delay is explained in particular by the fact that Haiti is aware of the social impact and would not wish to take a leap into the unknown. Despite this caution, several popular organizations protested in early 1997 against the economic policy of the Smarth Government, whose resignation they are demanding. Some people do not seem to appreciate the efforts of the Government and Parliament in the area of economic reforms, including the adoption of certain tax laws. On 9 January 1997, their discontent was expressed in an anti-Government demonstration in Port-au-Prince, which the National Police broke up with tear gas. The same day, the inhabitants of Estère (Haut-Artibonite) erected flaming barricades on National Route 1 to express their hostility towards the Government's socio-economic policy.

13. On 16 January, according to the Haitian Press Agency, the country was paralysed by a general strike sustained largely by threats from those popular organizations which continue to call for the resignation of the Smarth Government. It is regrettable that these groups threatened to force those disobeying the call to strike to return to their homes and to attack any shops, businesses or vehicles that defied their actions. A National Police vehicle was stoned in the poor neighbourhood of Carrefour-Feuilles. The National Police arrested several persons following an exchange of gunfire between pro- and anti-Government demonstrators. The success of this strike did not rattle President Préval, who spoke out against what he termed "political adventurism". He was quite clear in stating that "in carrying out the tasks to be undertaken by the Government, the Executive would risk considerable delays if the Prime Minister were to leave".

14. Another important factor is the process of transforming a State ruled by a clique serving its own interests into a State genuinely serving the public. This presupposes a modern administration, with more conscience and competence. For a long time, the Haitian State could not safeguard the rights of public servants, which resulted in the best of them offering their services to NGOs and international organizations. This observation has been echoed by donors, who acknowledge that State structures are inefficient and propose the creation of units to replace them. The consequence is dysfunction, which is weakening the administration because those working in the units are paid in United States dollars. This situation naturally creates frustration within the central administration. This is why public servants must be provided with special benefits and guarantees; they in turn will be required to demonstrate their competence and productivity.

B. The right to health

15. The report on development cooperation provided to Haiti in 1995 states that less than 50 per cent of the population has access to primary health care and that the infant mortality rate is 94 per thousand between 0 and 1 year of age and 133 per thousand between 0 and 5 years. These high rates are the result of poor sanitary conditions, nutritional deficiencies, illiteracy, the lack of infrastructure and low incomes. The situation is made worse by the spread of urban slums, where infectious diseases are common, not to mention the increasing number of people with the AIDS virus. According to the same source, AIDS is becoming the main cause of hospitalization among the poorest segment of the population. Haiti currently has 49 hospitals; 199 health centres, of which 60 have beds; and 405 clinics. That means there is one bed for every 1,300 inhabitants and 1.2 doctors, 1.3 nurses and 2.7 nurse's aides for every 10,000 inhabitants. However, it should be emphasized that health coverage is concentrated in the Département de l'Ouest, particularly in the metropolitan area, which has 70 per cent of the doctors, 50 per cent of the dentists and 60 per cent of the nurses, whereras 70 per cent of the population lives in the rural areas.

16. According to UNDP, even though the most recent national budget earmarked about 11 per cent of resources for the health sector, the combined effect of currency depreciation and population growth has reduced health expenditures to about $2.90 per inhabitant each year, most of which comes from bilateral and multilateral foreign aid.

17. To this sombre picture of the health situation in Haiti should be added the tragic affair of the contaminated syrups, which caused the deaths of almost 80 Haitian children. As soon as the deaths of the first victims were announced, the Minister of Health published a statement urging the population immediately to cease using "Afebrile" and "Valadon" syrups, and calling for their removal from all pharmacies. Most of the cases were reported in Port-au-Prince, but there were also cases in seven other areas. The ages of the victims ranged from 1 month to 13 years. Laboratory examinations, conducted with the assistance of John Hopkins University, established that death had been caused by the toxic substance, diethylene glycol. The Regional Office of the World Health Organization (WHO), the United States Center for Disease Control and the United States Food and Drug Administration assisted the Haitian Ministry of Health in investigating this tragic story.

Eleven children were transferred, with the help of the United States Agency for International Development (USAID), to United States hospitals in Michigan, Ohio, Alabama, Florida, St. Louis, Boston and New York.

18. The question arises as to how these contaminated syrups could have been manufactured by PHARVAL, a Haitian laboratory, and authorized for sale. What is PHARVAL's responsibility? What is the responsibility of the Haitian State? As the case is currently in the courts, the independent expert will refrain from comment. On 20 November 1996, the Laboratoires PHARVAL attorneys decided to sue the Haitian State. PHARVAL attorney Garry Lissade said that "the company's management were not solely responsible for the entry into Haiti of diethylene glycol-contaminated glycerine. The Haitian State, through the Minister of Health, the Director of the General Hospital and the Director-General of Customs, were also supposed to be monitoring the quality of imported pharmaceutical products." The Minister of Health, Mr. Rodolphe Malebranche, none the less said that he would make public the results of the inquiry into the responsibility of Laboratoires PHARVAL.

19. President Préval conveyed his deepest sympathy to the victims' parents and appointed an attorney to help them. The lawyers for the victims' families are suing PHARVAL for $41 million in damages.

20. In any event, this case demonstrates the importance of monitoring implementation of the diethylene glycol measures called for by WHO (see Alert No. 13 of 26 September 1990 and No. 31 of 22 December 1992). These measures can be summarized as follows:

(a) Inspection reports of manufacturers of all products registered within your country that contain propylene glycol as a declared ingredient should be reviewed, focusing on identity and control of the ingredients;

(b) Relevant documentation and/or chemical analyses of products/materials should be checked and, if necessary, further investigation undertaken;

(c) All possible information should be obtained on suppliers and channels of distribution of propylene glycol - both locally manufactured and imported in your country.

C. The right to education

21. The high rate of illiteracy - about 75 per cent - is one of the most pressing problems, given the close link between education and development. During the past five years, only half the population aged 6 to 24 was able to attend school, mostly in the urban areas. The population with access to secondary education does not exceed 20 per cent. This figure is explained by the low level of investment in the education sector and the fact that private schools charge fees that are beyond the means of most parents. It should also be noted that in the rural areas children enter the labour market at a very young age because they represent an additional source of income for their family.

D. The right to land

22. On 2 November 1996, President Préval launched the agrarian reform programme beginning in Artibonite. Why Artibonite? Because it is a region with great potential for agriculture and rice cultivation. Land is expensive there, which explains the violent conflicts constantly affecting the province. Also in Artibonite there has always been an alliance between the oligarchies and the administration against the small farmers. One of the objectives of starting the reform there, has therefore been to put an end to the disputes over land which were previously settled through bloodshed, despite the existence of a structure that has apparently failed: the Artibonite Valley Development Agency (ODVA). The ODVA was created as part of a new agrarian policy begun in 1946, aimed at stimulating agricultural production. According to J.J. Honorat, its failure was supposedly due to political interference which turned the experiment into a profit-maker for some bigwigs who divided up vast areas of land among themselves. But the situation has worsened also because of the increasing venality of management and the increasingly common predatory attitudes of the leadership.

23. Agrarian reform, already a part of the 1987 Constitution, certainly meets the demands made by the people during the Dessalines regime. It should be recalled that Dessalines was killed because of his policy of verifying land titles. The demagogic, populist reform of Pétion followed, during which the large properties were in the hands of senior officers. As to Christophe, his elitist reform was reminiscent of the colonial period. The Royer regime continued Pétion's reform. This brief historical overview shows the importance of agriculture in Haiti. The oligarchy, whether mulatto or black, has always run the country, with the land representing a source of income.

24. Since Haiti's only "resource" is its land, agrarian reform had to be organized before the country could be modernized. That is President Préval's objective; he wants to motivate those who work the land by giving them title to it, while at the same time preserving the environment. With this reform under way, the State plans to evaluate the land and determine which lands can be used for industry, agro-industry and the like. It should be noted that Haiti supplies barely half its own food needs. Some 1.5 million Haitians depend on humanitarian assistance, even though the country has a wide variety of ecosystems offering extensive possibilities for diversified production, both for local consumption and for export.

25. The reform, which is being directed by the National Institute of Agrarian Reform (INARA), will not be limited to land distribution; it will endeavour to make rice production competitive, help the people become self-sufficient and have the Artibonite Valley serve as a pilot project for other areas. A decision has been taken to postpone all litigation and give full powers to the INARA, which is not attempting to replace the courts, but simply to ensure access to the land. It has already decided to take possession of a parcel of land in Estère in dispute for years between the heirs of two families, a dispute which caused the deaths of several dozen people. While it is true that the courts and the Army have always stood together, not to say connived, against the peasants, the decision poses a problem with regard to ownership rights. The first senator of the Artibonite, Mr. Samuel Madistin, believes the threats by the large landowners could

seriously impede the smooth functioning of the agrarian reform process. He has expressed doubts about the security programme the Government will set up for the peasants once the land has been distributed to them. Clearly, farmers should be made secure and protected as part of the agrarian reform programme.

E. Women's rights

26. In the new Government, which has been in office since February 1996, a woman has been appointed Minister of Women's Affairs, responsible for preparing action to combat discrimination against women and violation of their specific rights. It should be noted that she is the only woman of the 14 ministers in the Haitian Executive.

27. The Government has taken steps on behalf of women who suffered greatly from violence during the military dictatorship. The rape of women as a form of repression was a common practice at that time. Since the return of democracy, the Government has paid special attention to these victims and to bringing about their reintegration into society.

28. Representatives of NGOs consulted, and particularly of organizations active on women's issues, none the less believe that much remains to be done. They have pointed out that domestic violence against women is still very common, affecting large numbers of women at all levels of society. The Centre for Economic and Social Research and Training for Development (CRESFED) has said that 29 per cent of women surveyed admitted that their first sexual intercourse had been non-consensual. The very low rate of marriage - less than 10 per cent of the population - explains the heavy burden of responsibilities placed on Haitian mothers, since most of them raise and educate their children single-handedly.

29. In his previous report, the independent expert recommended that the Special Rapporteur of the Commission on Human Rights on violence against women should visit Haiti, a recommendation that was favourably received by the Government. He believes that this recommendation is now more valid than ever.

F. Technical cooperation

30. In view of the authorities' positive reaction to the cooperation offered by the Centre for Human Rights, a project proposal was developed in December 1995, aimed at strengthening the institutional capacities of the State human rights bodies by training the largest State bodies, particularly the judicial organs, police and teachers at various levels. In order to ensure that the programme's activities are implemented in a coordinated manner, recruitment of a project manager was planned.

31. Despite the support of the authorities from the outset, several attempts to get the project document signed failed. Being convinced of the importance of technical cooperation in the field of human rights between the United Nations and the democratically elected Government of the Haitian people, the independent expert used the opportunity provided by his visit to resume the negotiations. He noted that the availability of the authorities, particularly of the Minister of Justice, was always beyond reproach. The Minister, however, believed that a new definition of the project was needed,

as the proposal called for activities that were too scattered. On his own initiative, the independent expert was able to get the Minister of Justice to sign the agreement which had already been approved and signed by the Assistant Secretary-General for Human Rights, subject to any changes that might be necessary in order to update the project and enhance its effectiveness. This new definition will be prepared by the project manager appointed by the Centre for Human Rights and submitted to the independent expert for his opinion.

32. Based on consultations held during the expert's visit, two of the Government's priority needs which could be the subjects of a technical cooperation programme may be advanced, namely, (a) a civic education campaign, to result in the opening of a national debate; and (b) the holding of a colloquium on criminal law for the various sectors in the judicial system. The independent expert agrees with these suggestions and strongly recommends the prompt preparation of a concrete programme aimed at providing support in these two areas.

II. THE ADMINISTRATION OF JUSTICE

A. Introduction

33. The Haitian people's thirst for justice is far from being slaked, and the question of impunity continues to fire debates among human rights NGOs. The Government is aware of the urgent need to satisfy the people's legitimate aspirations for justice and is attempting to introduce a reform of the judicial system that will secure sound and impartial administration of justice. Hitherto, the Haitian judicial system has been based largely on exclusion, corruption and depredation. Certainly, the new Minister of Justice, Mr. Pierre Max Antoine, who possesses extensive experience as an attorney, is motivated by the best intentions. He has expressed his willingness to make justice accessible to all. It is his ambition to ensure that every citizen receives whatever assistance he may require. But he is coming up against the prevailing conservatism of the judicial sector: the new order is taking a long time to be born, and to change the old order will require an enormous investment in attitudes and know-how.

34. While it may be relatively easy to change a dubious system in other sectors, this is not the case of the justice sector. For example, it is not possible to appoint a young law graduate as judge to the Court of Criminal Cassation. Investment in the judicial sector can be made only over the medium and long term. Unfortunately, there are still many corrupt judges whom it would not be easy to get rid of in effecting the transformation from "macoute justice" to democratic justice - in other words, quite simply, justice. There are many instances of persons implicated in crimes being released because the investigation was deliberately botched.

B. The seized documents and impunity

35. The affair of the documents seized from the headquarters of the Haitian Armed Forces and of the Front pour l'avancement et le progrès Haïtien (FRAPH) and dispatched to the United States also continues to arouse concern in human rights circles. Suffice it to quote Reed Brody, one of the lawyers appointed

by President Aristide to help bring to justice those responsible for the crimes committed during the regime established following the coup d'état:

> "The single most important step towards meaningful judicial reform and creation of popular confidence in State institutions in Haiti would have been to achieve justice for crimes committed during the de facto rule. Yet foreign actors virtually refused all assistance in this task. The principal donor to the justice programme, the United States - which was on record as opposing the prosecution of military leaders - actively obstructed efforts to bring the killers to justice."

36. As to the affair of the documents sent to the Pentagon without informing the Haitian Government even being informed, apparently it was not until December 1995, after articles appeared in the United States press, that the United States' ambassador to Haiti offered to return the documents to the Haitian law enforcement authorities, but only on the twofold condition that Haiti agree to keep them secret and that the United States "delete or remove names or other information identifying individual United States citizens". On 24 June 1996, a State Department spokesperson said: "We wanted to redact, to take out some of those documents and references that we thought might be damaging to individuals, even perhaps to some American interests or concerns. It was on that basis we offered the documents to the Haitian Government."

37. The acquittal in July 1996 of two persons charged with the 1993 murder of the former Minister of Justice, Guy Malary, focused the spotlight on what seems to have been an effort at obstruction by the United States. It is surprising that the former Police Chief of Port-au-Prince, Michel François, suspected of having ordered Malary's murder, has been authorized by the United States forces to live in the Dominican Republic. Curiously, he was arrested in that country and, instead of being transferred to Haiti, where he had already been sentenced in absentia for another murder case, he went to Honduras. It is urgent for the United States to settle the question of the confiscated documents once and for all so as to avoid giving the impression that it wants to ensure the impunity of the authors of grave violations of human rights.

38. The United States' contribution to the establishment of the rule of law in Haiti is so important, financially and technically, that the country would gain from not being suspected of following a dual policy. It is a truism to say that the establishment of the rule of law involves above all an independent, adequate and effective judicial system. This is one of the priority tasks taken on by the Minister of Justice, and it already enjoys both multilateral (European Union) and bilateral (Canada, United States, France) support. It is a matter of introducing judicial reform which, while ambitious, is in keeping with the legitimate aspirations of the Haitian people. On this subject, the Government's concern is to reform the outdated judicial structures and gradually adapt them to the country's social development needs.

C. Reform of the judicial system

39. A draft law on the reform of the judicial system will probably be adopted by Parliament during its first session of 1997. The draft includes a

provision which testifies to the need for urgent measures: the Executive is given a period of six months, starting from the enactment of the law, to carry out the most urgent reforms. These concern the evaluation and restructuring of the magistrature and are five-fold:

(a) Needs assessment for the training of judges;

(b) Inauguration of the Magistrates' College and establishment of the training programme;

(c) Drafting of the Magistrates' College statutes;

(d) Drafting of the Magistrature statutes; and

(e) Dismissal and appointment of judges and judicial personnel in the courts, civil courts, prosecution service and magistrates' courts.

40. It should be stated that, from the moment the Government first took office, on 6 March 1996, after briefly taking stock of the situation, the team of the Minister of Justice put together a document outlining the policies to be followed by the Ministry. An evaluation was then made of the Ministry's human resources and physical and organizational structure, so as to meet the expectations formulated in the policy document.

41. The scarcity of existing documentation in the courts, which was commented on in the 1996 report (E/CN.4/1996/94), made a particular impression on the Minister of Justice. Some 1,600 copies of codes (civil, penal, criminal investigation, labour, commerce) were furnished to the courts, law schools and bar associations throughout the country. Some 1,000 copies of a text on human rights were distributed to civil society organizations to increase awareness of human rights.

42. The expert's recommendation on equipping the courts and prosecution service has also been taken into account. Typewriters, file folders, registers, warrant forms and office supplies were made available to almost every court and prosecution office. Fourteen civil courts are under construction. Three buildings of the Magistrates' College have been completely renovated and two are being repaired. In the area of training, hundreds of magistrates and clerks have received instruction on law and human rights.

43. On the eve of the expert's departure from Port-au-Prince, he attended the closing session of a major colloquium on the independence of the judiciary and the statutes of the Magistrature and the Magistrates' College. Prior to this colloquium, the Ministry of Justice, in a desire for broad consultation and dialogue, had submitted a questionnaire to all judges, jurists in general and representatives of civil society. The results of this survey served as a basis for discussion during the colloquium, which was held at the Magistrates' College on 8-9 November 1996.

44. With regard to the Magistrature statutes, it appeared necessary to prepare a text that could secure an impartial, effective and competent administration of justice and that would be accessible to all Haitians. As to

the Magistrates' College, an excellent tool for judicial reform, the most urgent things should be attended to first, by adopting three preparatory measures called for by the colloquium:

(a) First, to ensure that law graduates, serving justices of the peace, holders of legal studies diplomas and those who have passed the College's competitive examinations are brought up to the same standard. Candidates who are not justices of the peace but who meet the same professional criteria will be eligible under the same conditions of selection;

(b) Secondly, in view of the urgency of filling vacancies, to organize the training of a first intake of magistrates, composed of law graduates, incumbent magistrates and other professionals selected by examination. At the same time, continuing education must be organized without delay;

(c) Thirdly, to set up a body to monitor implementation of the preparatory measures.

45. Substantive measures, they should be both medium-term and long-term, with the objectives clearly defining the College's Statutes and, in conformity with the Constitution and legislation, creating a new image of the magistrate.

46. The Statutes of both the magistrature and the Magistrates' College must be part of a dynamic policy aimed at guaranteeing the independence of the judiciary. Foremost among the recommendations of the independent expert, therefore, is that the Basic Principles on the Independence of the Judiciary should be incorporated into the Statutes, and that they should be taken into account at the drafting stage so that the final texts are in conformity with those principles.

47. Implementation of this recommendation is imperative, given the lack of any tradition of independence, objectivity or impartiality in the Haitian judicial system. That situation is compounded by the fear felt by many judges and the public's distrust of the system, which tend to foster certain forms of popular justice mentioned in the previous report. It is for this reason that the expert has urged the political authorities and representatives of civil society, especially the Plate-forme des organisations haïtiennes des droits de l'homme, to develop a sweeping programme of civic education and human rights training and to introduce legal services into rural areas. This would be a prerequisite for reconciling the Haitian people with their judicial system.

D. Independence of the judiciary

48. Until such time as the judicial reform achieves its objectives, which requires time and money, the unstable, precarious situation of judicial personnel in Haiti needs to be addressed. MICIVIH has considered the question rigorously and meticulously in a study entitled, "Le système judiciaire en Haïti: analyse des aspects pénaux et de procédure pénal" ("The judicial system in Haiti: analysis of penal aspects and criminal procedure").

49. Article 60 of the Haitian Constitution proclaims the independence of the judiciary by providing that "Each branch is independent of the other two in its duties, which it performs separately." In practice, the independence of

magistrates is undermined by several factors linked to their status, the mass dismissals since the return to democracy and their poor remuneration. A magistrate earns about 5,000 gourdes [15 gourdes = $1] per month. The monthly salary of justices of the peace is about 3,500 gourdes for regular justices and 2,500 for surrogates. It is not uncommon for magistrates to spend some of their time teaching at lycées and other schools to make up for their modest salaries, which are not paid regularly. It should be emphasized that there is no incompatibility between teaching and the duties of the magistrate, in conformity with article 179 of the Constitution, which states that "The position of judge is incompatible with any other salaried position, except teaching". One has only to observe that an entry-level officer of the Haitian National Police earns 5,000 gourdes to understand why judges and deputy government commissioners want to become National Police officers.

50. Under the circumstances, it is not surprising that allegations of corruption are frequent, even though it is difficult to back them up with evidence. MICIVIH, for example, reports that "over a short period of time, magistrates whom the population has labelled as corrupt issued a series of committal orders and then released the individuals after several days of detention. There are indications that these detentions were carried out solely to extract money from the prisoners".

51. MICIVIH has also cited the case of an individual who was released upon payment to the government commissioner not only of bail, but also of a "fine" of 10,000 gourdes. There is the additional practice of certain magistrates, justices of the peace in particular, of asking plaintiffs to pay fees for issuing various types of warrants. The salaries of court clerks are appallingly low, ranging from 650 to 900 gourdes per month. It is not surprising therefore, to learn of written judgements that are not in conformity with the decisions of magistrates, judgements which resulted from the clerk being suborned by the losing party.

52. The other factor testifying to the precariousness of the judicial system is the number of dismissals of magistrates. MICIVIH discovered that, in 1995 alone, there had been 16 dismissals, just in the region of Port-au-Prince. In Petit-Gôave, 8 of the 16 magistrates have been dismissed; in Anse-à-Veau, 13 of the 23 magistrates. In 1996, the Département du Nord saw a wave of dismissals of justices of the peace, affecting five communes in the jurisdiction of the Procurator of Grande Rivière du Nord. Most of those dismissed were notified by a letter from the Ministry of Justice relieving them of their duties. They have no protection against wrongful dismissal. The Constitution does not grant them irremovability, nor does the 22 August 1995 decree on judicial organization, which stipulates that "once appointed, judges - except for justices of the peace and their surrogates - are irremovable". The result is that they cannot even appeal decisions of dismissal and do not even enjoy the same guarantees as public servants under their General Statutes. Article 6 of the Public Service General Statutes Act states that its provisions do not apply to judicial personnel. It is important to put an end to the uncertainty prevailing in the judicial system, which hampers the proper administration of justice.

E. Criminal procedure

53. The quality of criminal procedure and the penal system is another source of concern, aggravated by the fact that the 1987 Constitution contains provisions that introduce changes with regard to judicial guarantees, but are often not respected. The same goes for the guarantees enshrined in the American Convention on Human Rights and the International Covenant on Civil and Political Rights, instruments ratified by Haiti in 1977 and 1991, respectively. On a daily basis, grave violations of human rights are uncovered in the administration of justice. During the independent expert's visit to the National Penitentiary in Port-au-Prince, he noted cases of detention for debt, in violation of the Covenant.

54. It is also common for the rights of the suspect to be flouted as concerns the length of detention, legality of searches, etc. One case caught the expert's attention, and he in turn brought it to the attention of the Haitian authorities, including President Préval. It concerns Lucien Rigaud, who was arrested on 30 May 1996 by the Haitian National Police without an arrest warrant and without the police explaining that they were taking the action in circumstances of in flagrante delicto. According to information received from Mr. Alcindor, Lucien Rignaud's attorney, and confirmed by MICIVIH, the National Police had simply stated that Mr. Rigaud was being arrested to prevent a conspiracy against the security of the State.

55. While article 26 of the Haitian Constitution stipulates that "No one may be detained for more than forty-eight (48) hours unless he has appeared before a judge competent to rule on the legality of the arrest and the judge has confirmed the arrest in a reasoned decision", Mr. Rigaud did not appear before a judge until he was released following intervention by the expert and Mr. Matarollo of MICIVIH.

56. The case is serious enough to be described in greater detail. On 5 June 1996, Mr. Rigaud, through his attorney, appeared before the senior judge of the Civil Court of Port-au-Prince and asked him to decide on the legality of his arrest and detention, under articles 26-1 and 26-2 of the Constitution. During the hearing, and to the exclusion of all other business, the judge declared the arrest of Lucien Rigaud to be illegal and ordered his immediate release. Despite the fact that the judge's order, in this particular case, was executory notwithstanding any appeal or application for judicial review, the government commissioner did not comply, but instead brought an appeal. As an argument for appeal, he maintained that on 4 June 1996 he had asked the investigating judge to investigate. Ruling on that argument, the Court of Appeal of Port-au-Prince, in its hearing of 21 June 1996, annulled the judge's order.

57. On an application by Mr. Rigaud, this decision of the Court of Appeal was confirmed on 18 October 1996 by the Court of Criminal Cassation. In the opinion of the independent expert, Mr. Rigaud was detained illegally on the premises of the Haitian National Police from 30 May to 10 December 1996. It is imperative that Haiti's highest court pay greater heed to article 26 of the Constitution, particularly subparagraph 2, which provides for the remedy of individual protection, otherwise known as habeas corpus. In that regard, it is not superfluous to draw attention to advisory opinion OC-8/87 of

30 January 1987 rendered by the Inter-American Court of Human Rights, on habeas corpus. It is admitted that the immediate objective of this remedy is to bring the prisoner before a judge to establish whether the prisoner is still alive and whether he has been subjected to torture or physical or psychological abuse.

58. In the Court's opinion, the procedure of habeas corpus, as incorporated into various American judicial systems, is a judicial remedy aimed at safeguarding individual freedom and physical integrity against arbitrary detention, through judicial decisions ordering the appropriate authorities to bring the prisoner before a judge in order to determine the legality of the detention and, if appropriate, order his release. This remedy is set forth in article 7, paragraph 6, of the American Convention, which provides the following: "Anyone who is deprived of his liberty shall be entitled to recourse to a competent court, in order that the court may decide without delay on the lawfulness of his arrest or detention and order his release if the arrest or detention is unlawful. In States parties whose laws provide that anyone who believes himself to be threatened with deprivation of his liberty is entitled to recourse to a competent court that in order that it may decide on the lawfulness of such threat, this remedy may not be restricted or abolished. The interested party or another person on his behalf is entitled to seek these remedies."

59. Upon considering this case, MICIVIH concluded that the judicial guarantees had not been respected. It should be welcomed that the Mission decided to render an opinion on the question, which it will send to the competent Haitian authorities. Its remarkable work in strengthening the promotion and protection of human rights can never be sufficiently praised. In addition to what its contribution to establishing a competent, impartial and effective judicial system, it maintains good relations with the Haitian National Police. It also has access to police stations and prisoners kept there, enjoying the extensive cooperation of local and national leaders in its search for information on respect for human rights and in its action taken to improve the situation.

F. The Haitian National Police

60. Following the incidents and blunders recounted in the expert's previous report, and at the suggestion of MICIVIH, a course on police ethics (based on the code of ethics of the Haitian National Police and the Code of Conduct for Law Enforcement Officials) was included in the training programme. By mid-1996, this course had been taught to more than 3,000 Haitian National Police officers, 250 members of the General Security Unit of the National Palace, 34 supervisors, 120 members of the Compagnie de maintien de l'ordre (Law Enforcement Unit) and 10 members of the Criminal Investigations Brigade. There is no doubt that the National Police is making a break with the past. The grave abuses committed by police officers are no longer the rule, even though police officers have in fact been implicated in violations of the right to life and physical integrity. MICIVIH reports that it has investigated about 50 incidents in which police officers used firearms. It states that during these incidents, which occurred between July 1995 and May 1996, 26 persons lost their lives and about 50 persons were reportedly wounded.

61. Also according to MICIVIH, in isolated instances police officers have deliberately killed or wounded individuals or fired on wounded suspects. Cases of ill-treatment were reported in May 1996, particularly in Port-au-Prince, where there were allegations of torture using electric shocks and incidents that may have been summary executions. Again according to the Mission, four persons in custody at the Croix des Bouquets police station were found dead between 20-24 June 1996. At least one of them had reportedly been shot to death in the courtyard of the police station on the night of 20-21 June. One of the bodies was found in the cesspool of the station's latrines. The General Directorate of the Haitian National Police immediately ordered an inquiry into the circumstances of these deaths.

62. This is a sign that the political will exists to put an end to the culture of impunity, and that will is reflected in the establishment of the Inspector-General's Office, a monitoring and investigative body instituted by the Act on the creation, organization and functioning of the National Police. Article 38 of that Act defines the mandate of the Office as: "to receive complaints and undertake investigations of attacks on human rights and any other abuse that might be attributed to police officers and to issue a receipt for all complaints brought by a citizen against a member of the National Police". In order to satisfy the people's aspirations for greater justice, the Act calls for the complaints to be filed directly with the Office or with the Departmental Police Director. It is the latter's duty, in conformity with article 46, paragraph 8, to "receive and dispatch to the Inspector-General's Office any complaint brought by a citizen regarding an accusation of abuse of power by members of the National Police under his jurisdiction; to communicate to any plaintiff, on request, a copy of the receipt; to facilitate the investigation conducted by the government commissioner in connection with the complaint; and to act on any resulting judicial decision".

63. MICIVIH's observation, borne out by the NGOs, is that people are making frequent use of this complaint machinery. They no longer live in fear of police reprisals, and are also getting over their mistrust of investigations which in the past were either not carried out or led nowhere. Moreover, the Inspector-General's Office no longer waits for instructions from the Justice Minister before investigating cases of abuse, despite its limited resources. Addressing the deputies on 10 May 1996, the Inspector-General said that 186 disciplinary cases had already been, or were being, dealt with; that 36 sentences had already been pronounced, ranging from simple reprimand to termination of contract; and that 46 police officers had been suspended without pay or with reduced pay.

64. The fact that some of these penalties were publicized in the press is indicative of the Office's determination to strengthen measures to combat impunity. This is all the more important in that local investigations by the police hierarchy are not paragons of impartiality and tend to find the police innocent. The following two examples, provided by MICIVIH, speak volumes. The first took place in Cerca-la-Source, where a police inspector supposedly said he would not undertake an investigation to verify reports that two prisoners had been beaten with truncheons by police officers on 7 April 1996 because he personally did not believe it. The second example involves a beating in St. Louis du Nord on 4 January 1996, in which the

investigation by the Port-de-Paix police commissioner concluded that the police officers were innocent, whereas the Court of First Instance of Port-de-Paix sentenced them to several days' imprisonment or to fines.

65. The investigations conducted by the judicial authorities must not be paralysed and the government commissioners should immediately open investigations into suspicious deaths. To MICIVIH's knowledge, judicial inquiries have been initiated into only two incidents in which people were allegedly shot to death by police officers. Nevertheless, it is true that the judicial authorities today are more disposed to investigate human rights violations, even though they do not possess sufficient or appropriate scientific and technical means. For example, there is no capacity for ballistic analysis in Haiti, nor any capacity for identifying fingerprints or other kinds of prints.

66. However, these constraints did not prevent police officers from being sentenced by a court for a human rights violation in March 1996, the first time ever. It will take more time before the population can completely trust the police force which it reproaches for failing to lower the crime rate, and some members of which it compares with former members of the Haitian Armed Forces and auxiliaries. It is in this context that the creation by the police of a community relations unit should be seen; this unit has organized meetings with popular organizations, with the participation of MICIVIH, to discuss the role of the police, machinery for punishing abuses and other human rights-related subjects. A massive civic education programme will be needed in order to facilitate confidence-building between the population and the police.

67. Civic education has been identified by the Minister of Justice as a priority area. He hopes, within the framework of cooperation with the Centre for Human Rights, to set up a mobile civic education unit. Such a unit, especially in the remote areas of the country, could provide persons involved with the law with information and the appropriate texts that would enable them better to exercise their rights or defend themselves, as appropriate. USAID, as part of its democracy-strengthening project is planning activities that cover two priority areas: assistance to victims and their families based on previously defined eligibility criteria, and improved relations between the National Police and the community. This second area would include setting up places where different sectors of civil society could meet with the police; strengthening the information capacities of the National Police to inform the community of its restructuring efforts and of the progress achieved; and conducting an information campaign on laws governing the rights and duties of the police and citizens in the area of public order and security.

68. The murder of police officers - no fewer than seven between March and May 1996 - has affected the morale of the National Police, which on 12 June 1996 celebrated its first anniversary. Most of the young police officers were idealists when they joined the force, but the reality on the ground and dwindling public support undermined that optimism from the outset. These murders of police officers have been condemned by President Préval, who called them an attempt to destabilize the State. MICIVIH, vigorously condemns the murders and hopes that those responsible will be found so as clearly to determine the motivation for these crimes and to demonstrate that such serious

crimes, which damage the stability of the institution and the security of society and its servants, who are guardians of public order, will not go unpunished.

69. The question of the availability of weapons in Haiti must be dealt with urgently as well. The independent expert has said there were gaps in the disarmament, even though it was undertaken on a massive scale. The armed confrontation on the night of 5 November 1996 between a dozen individuals and a police patrol is one example, especially given the description of the arms that were discovered in the jeep carrying the assailants, who wore uniforms similar to those of the National Police. There were automatic weapons, including M-16s and M-60s, fragmentation grenades and rocket launchers. According to a well-placed source in the Delmas police station, these arms must have been recently dug up, as some of them bore traces of mud. This was confirmed by President Préval. Five assailants were killed and the others, some of whom were reportedly wounded, escaped. There were no police casualties.

G. Corruption

70. Corruption is endemic in Haiti, even though there was a break with the Aristide/Préval Government. Nevertheless, the restoration of constitutional order will be accompanied by the language of reconciliation, with its inevitable retinue of promises and silence on allegations of corruption against those in power. In any event, since coming to office, President Préval has committed himself to combating corruption, with all the dangers that may entail. Some have not hesitated to assert that had it not been for the international presence, there would have been a coup d'état, given how threatened the interests of the oligarchies are. Corruption is a real threat to the democratic process in Haiti, to the point where the President has asked for Parliament's help in shedding light on a number of scandals.

71. The independent expert certainly encourages the President in his crusade against the rape of the Haitian economy. But strength must reside in the law, starting with respect for the separation of powers. The expert was disturbed by the procedure used in the arrest of Mr. Narcisse, director-general of Ciment d'Haïti S.A., on 26 September 1996. Rather than seeing to the institution of public proceedings, as required by law, the President apparently conducted the "interrogation" of Mr. Narcisse himself, in the National Palace, in the presence of the Haitian press. The President seemingly has irrefutable proof that Mr. Narcisse disposed of the assets of Ciment d'Haïti on his own behalf, pocketing about $18,300. Mr. Narcisse maintains his innocence.

72. Similarly, the President opposed the release order for a Mr. Saint-Ange, who had been arrested on charges of embezzling around $650,000 from a private bank in Port-au-Prince. These charges were part of a case of counterfeit Treasury cheques, which allegedly cost the State more than $7 million. The release was ordered by Mr. Milord, senior judge of the Civil Court of Port-au-Prince, on the grounds that Mr. Saint-Ange had been arrested without a warrant and detained beyond the constitutional limits without having been

brought before a judge. Mr. Milord had reportedly himself been accused by the Director-General of Customs of threatening the Customs officials if they did not order the release of a boat, the Silfina Express, seized for "contraband activities" in Mirogoane port. He reportedly denied those charges, claiming that excess baggage could not be equated with smuggling.

73. The question arises as to whether it is possible to combat corruption, fraudulent enrichment, embezzlement of public assets and other crimes that damage the Haitian economy with the existing law-enforcement arsenal. Should certain judges and government commissioners specialize in handling this type of case? The President's concern is understandable, but it is important to ensure that justice is done according to the rules of procedure. His concern is all the more understandable, given that tax-free items are being sold in Port-au-Prince and that the markets are glutted with food and pharmaceutical items not intended for sale. How did these products reach the market? Who is behind this state of affairs? The cross-checks conducted by the independent expert established that certain aid organizations submit requests for huge quantities of various products and then sell them to merchants.

74. Some organizations exploit their status so that individuals can enjoy import tax and duty exemptions. The most common articles are vehicles and vehicle spare parts. Other irregularities are committed by aid organizations engaged in activities incompatible with their status. They compete with enterprises in the traditional commercial sector, in terms of the presentation of their products, quality of services provided and price. They are found in the following sectors: neighbourhood stores, restaurants, exhibitions, sale of handicrafts, flower exports, ornamental plant shops, traditional and vocational schools, and bakeries.

75. There is also the sale of vehicles exempted from duties and taxes. It is no secret that some organizations advertise the sale of cars imported duty-free in newspapers. Almost 400 organizations have been surveyed nationwide, and they are carrying out the same activities without, however, meeting the requirements of the decree on NGOs. They channel and manage an important share of international aid; they choose their area of activity unilaterally, which encourages the duplication of tasks within a given area; they supply, indirectly, the market with products not intended for sale, thereby upsetting the normal market channels; and they deprive the Treasury of major tax revenues.

76. On this last point, the exemptions granted NGOs for fiscal year 1994-1995 cost the Treasury 139,962,692 gourdes, or a monthly average of 12,723,881 gourdes. For the same period, the total cost of exemptions granted all institutions, including NGOs, was 522,718,580 gourdes. For fiscal year 1995-1996, the monthly cost of exemptions was about 30 million gourdes. The decree on NGOs has missed its mark. The text on associations now being drafted must introduce safeguards so that genuine NGOs can function transparently and as effectively as possible.

H. Prisons

77. As the independent expert has already observed, the inhumane and cruel conditions in Haiti's prisons reflect the conditions faced by the population at large, which has suffered greatly in the absence of democracy and of the rule of law. Before 1994, the prisons were under the authority of the armed forces, which was not the least concerned with the prisoners' welfare. Since the return of constitutional government, however, the administration has committed itself to an ambitious programme of prison reform, beginning with the creation of the National Prisons Administration (APENA). Established by a decree of 29 June 1995, APENA, under the direction of the Minister of Justice, is responsible for the management and supervision of Haitian prisons. These establishments, of which there are 18, hold a prison population of some 3,000. Built in 1908 for 300 prisoners, at the time of the expert's visit the National Penitentiary housed more than 1,000 prisoners, some of whom had been imprisoned for debt.

78. The large majority of this prison population comprises persons in pre-trial detention, forgotten behind bars, many of whom were imprisoned for acts which do not constitute punishable offences. This is why the independent expert welcomed the efforts made by UNDP through its penal reform assistance project. A support system for the clerks of prison establishments has been set up and deserves the support of all parties. The worthy efforts of the Minister of Justice should also be stressed: meals are served to the prisoners, who also have access to medical care. Despite this progress, however, conditions in Haiti's prisons remain well below the level required by the Standard Minimum Rules for the Treatment of Prisoners. Thanks to the International Committee of the Red Cross (ICRC), the environment of the National Penitentiary has been taken into account, which has helped to improve the health conditions. President Préval, following his visit to the National Penitentiary, decided to set up a commission to review prisoners' case files and make recommendations, the implementation of which may help to ease the overcrowding in prisons.

I. National Commission of Truth and Justice (CNVJ)

79. The independent expert has said that only the complete and public revelation of the truth would make it possible to satisfy the basic requirements of the principles of justice and create the conditions essential to a genuine and effective process of transition and national reconciliation. He urged that the final report should be completed and submitted to the President of the Republic (President Aristide) by 31 December 1995. It was not until late January 1996, a few days before René Préval took the oath of office, that the CNVJ completed its mandate and turned its report over to the President. In conformity with a presidential decree of 28 March 1995 on the creation of the CNVJ, the President and the Government were to adopt the Commission's recommendations and take all the measures required for their implementation.

80. The expert recommended that the CNVJ report should be widely disseminated, as any publicity on the report could have a potentially positive impact on other countries and help to prevent atrocities such as those the Haitian people had lived through. However, it is regrettable that to date,

only chapter VII, on the recommendations, has been made public. Up to now, owing to the sheer size of the report (more than 1,000 pages), only 50 copies have been made, and it has been announced that a simplified version will shortly be printed and distributed as widely as possible.

81. A Ministry of Justice document entitled "Eléments d'orientation pour une réforme de la justice en Haïti" ("Guidelines for a reform of the Haitian judicial system") contains the following observation:

> "The complete report of the National Commission of Truth and Justice has not yet been published and no legal actions have yet been attempted for serious cases. This has all the makings of a time bomb; large-scale explosive violence is possible, due to frustration and the desire for revenge."

This statement, which at first appears overly pessimistic, is on the contrary shockingly realistic. It is shared by many representatives of Haitian human rights NGOs. The delay in publishing and distributing the report widely has raised doubts in some circles about the Government's willingness to take account of the CNVJ's recommendations.

82. The Haitian people continue to call for justice, that is, for the prosecution of those responsible for human rights violations who have been identified by the CNVJ, and for the establishment of support structures for the victims and/or their families. With the help of the international community, the concrete implementation of the CNVJ's recommendations must be supported, which will require establishing a committee to assess and follow up on the Commission's work. Possible priority measures should include the following: creation of a special commission on compensation for injury suffered by the victims of the de facto regime that came to power following the coup d'état of 29 September 1991; creation of a special office to prosecute those responsible for human rights violations; and full restitution to the Haitian Government of the documents seized from the premises of the FRAPH.

83. The independent expert has noted with appreciation the efforts of the authorities and the initiatives taken to comply with international human rights instruments. On 27 February 1995, the Haitian Government submitted a succinct report on the human rights situation in Haiti (CCPR/C/105). The independent expert regrets, however, that the initial report, to be submitted under the International Covenant on Civil and Political Rights by 1 April 1996 at the latest, has still not been submitted.

84. Despite the marked improvement in the human rights situation in general, the shortcomings of the judicial system and the police apparatus somewhat overshadow the undeniably positive overall situation. These shortcomings certainly led to a climate of impunity, reflected in the alarming growth of petty crime and other forms of violence which continue to generate many victims. But it cannot be said too often: the situation in Haiti is still fragile, exacerbated by poverty. It is therefore important that the international community reinforce its support and that the International

Monetary Fund, which seems partially to have heard the expert's appeal last year, show greater understanding. Then, and only then, will the flame of human rights light up the long march of the Haitian people.

III. RECOMMENDATIONS

85. The independent expert recommends that:

(a) Haiti should ratify the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Optional Protocol to the International Covenant on Civil and Political Rights;

(b) Haiti should submit without delay its report to the Human Rights Committee and, if needed, it should be given assistance by the Centre for Human Rights to finish drafting the report;

(c) A programme of security for peasants should be established, as part of agrarian reform;

(d) Monitoring of the measures called for by WHO should be strengthened, particularly with respect to diethylene glycol;

(e) Fees for private schools should be revised downwards, through a programme of government subsidies supported by both bilateral and multilateral donors;

(f) The United States should return, in full and without delay, the documents seized from the FRAPH premises;

(g) Legal documents should continue to be distributed to courts, law schools and bar associations;

(h) Training of an initial intake of magistrates should be organized as a priority measure so as to fill vacant posts throughout the country;

(i) The Basic Principles on the Independence of the Judiciary should be included in the statutes of the Magistrature and of the Magistrates' College;

(j) Special attention should be given to the question of the remuneration of judicial personnel, particularly magistrates and clerks;

(k) Urgent measures should be taken to ensure respect for judicial guarantees, thereby putting an end to illegal and/or arbitrary detentions;

(l) The mandate of MICIVIH should be extended and the number of its observers not reduced, given the extent of their task, as well as the competence and dedication with which they are discharging their mission; they should be put in charge of human rights training at both the Magistrates' College and the Police Academy, where the police ethics course will be emphasized;

(m) The Minister of Justice should make sure that the government commissioners systematically open investigations into suspicious deaths;

(n) Within the framework of bilateral or multilateral assistance, scientific and technical equipment should be made available to the Ministry of Justice to provide Haiti with ballistic analysis and fingerprint identification capabilities;

(o) The Office of the Inspector-General of Police should be given the human, material and technical resources needed to discharge its mission successfully throughout the country;

(p) Penalties imposed on police officers found guilty of abuses should be widely publicized by the media, which should also help make the public more aware of the duties and functions of the Inspector-General's Office;

(q) Everything possible should be done to identify those responsible for the murders of police officers and to give greater attention to the availability of weapons;

(r) A study should be undertaken on the issue of corruption, embezzlement of public funds and fraudulent enrichment, with a view to establishing an effective system for combating these evils;

(s) The question of easing the overcrowding of prisons should remain an integral part of the Government's priority agenda;

(t) The CNVJ report should be published and widely distributed throughout the country, without delay;

(u) A special team of prosecutors should be created to prosecute those responsible for human rights violations, and a special commission established on compensation for injury suffered by victims of the de facto regime that came to power during the coup d'état of 29 September 1991;

(v) The Ministry of Justice, in collaboration with civil society organizations, including in particular the Plate-forme des droits de l'homme, should develop a comprehensive programme to provide civic education and human rights training and establish legal services in rural areas;

(w) The Special Rapporteur on violence against women and the Special Rapporteur on the independence of judges and lawyers should visit Haiti.

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